

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of)	
)	File No. EB-00-PA-362
Northeast Passage Corporation)	
P.O. Box 373)	NAL/Acct. No. 200132400003
Lanoka Harbor, NJ 08734)	
)	FRN 0004-9420-41

MEMORANDUM OPINION AND ORDER

Adopted: December 7, 2001

Released: December 11, 2001

By the Chief, Enforcement Bureau:

1. In this *Memorandum Opinion and Order* ("Order"), we grant in part and deny in part a Petition for Reconsideration filed by Northeast Passage Corporation ("NEPC") of the *Forfeiture Order*¹ issued by the Enforcement Bureau assessing a seven thousand dollar (\$7,000) forfeiture against NEPC for willful violation of Sections 17.4(a) (failure to register its antenna structure) and 1.89(b) (failure to respond to Commission correspondence) of the Commission's Rules ("Rules").² For the reasons provided below, the forfeiture will be reduced to three thousand dollars (\$3,000).

2. On September 13, 2000, the Enforcement Bureau received information indicating that NEPC had failed to register its Forked River, New Jersey antenna structure with the Commission. An agent in the Enforcement Bureau's Philadelphia District Office ("Philadelphia Office") spoke with the president of NEPC, Mr. Walter Holm, and verified that NEPC did own the antenna structure and that it had never been registered with the Commission. On October 20, 2000, the Philadelphia Office issued a Notice of Violation ("NOV") to NEPC for failure to register the antenna structure and requested that NEPC respond to the NOV within 10 days of receipt. NEPC did not respond.

3. On December 7, 2000, the District Director of the Philadelphia Office issued a second NOV to NEPC for its failure to register its antenna structure and its failure to respond to Commission correspondence. NEPC still did not respond. On March 22, 2001, the District Director of the Philadelphia Office issued a *Notice of Apparent Liability for Forfeiture* ("NAL")³ to NEPC for \$7,000 for

¹ *Northeast Passage Corporation*, 16 FCC Rcd 14424 (EB 2001).

² 47 C.F.R. §§ 17.4(a) and 1.89(b).

³ *Notice of Apparent Liability for Forfeiture*, NAL/Acct. No. 200132400003 (Enf. Bur., released March 22, 2001).

its apparent violation of Sections 17.4(a) and 1.89(b) of the Rules. On July 23, 2001, the Enforcement Bureau, after noting NEPC's failure to respond to the NAL, issued a *Forfeiture Order* to NEPC upholding issuance of the NAL and assessing a forfeiture in the amount of \$7,000.

4. On August 9, 2001, NEPC filed a Petition for Reconsideration of the *Forfeiture Order* in which it does not dispute the violations but requests abatement of the forfeiture amount. NEPC explains that Mr. Holm and his immediate family were faced with several extraordinary medical circumstances from October 2000 through June 2001 which made it impossible for NEPC to give its full attention to all of its correspondence, including the two NOV's and the NAL issued by the Philadelphia Office on October 20, 2000; December 7, 2000; and March 22, 2001, respectively. The information provided by NEPC adequately explains why it may have been difficult for NEPC to respond to Commission correspondence. Therefore, pursuant to Section 1.80(i) of the Rules,⁴ we reduce the \$7,000 forfeiture amount by the amount of the forfeiture assessed for NEPC's failure to respond to Commission correspondence (\$4,000).

5. However, the fact remains that NEPC did fail to register its Forked River, New Jersey, antenna structure and it does not dispute the violation. Moreover, it has provided no basis upon which to reduce or cancel the forfeiture for this violation. Consequently, we deny NEPC's request for abatement of the entire forfeiture amount and uphold the imposition of the portion of the forfeiture assessed for NEPC's failure to register its antenna structure (\$3,000).

6. Accordingly, **IT IS ORDERED THAT**, pursuant to Section 405 of the Communications Act of 1934, as amended ("the Act")⁵, and Section 1.106 of the Rules,⁶ NEPC's Petition for Reconsideration of the *Forfeiture Order* in this proceeding **IS** hereby **GRANTED** to the extent indicated above and **DENIED** in all other respects.

7. **IT IS FURTHER ORDERED** that, pursuant to Section 503(b) of the Act⁷ and Section 1.80 of the Rules,⁸ Northeast Passage Corporation shall pay the amount of three thousand dollars (\$3,000) for the above-stated violation within 30 days of the release date of this *Order*. Payment may be made by check or money order, drawn on a U.S. financial institution, payable to the Federal Communications Commission. The remittance should be marked "NAL/Acct. No. 200132400003, FRN 0004-9420-41" and mailed to the Federal Communications Commission, P.O. Box 73482, Chicago, Illinois 60673-7482. If the forfeiture is not paid within the period specified, the case may be referred to the Department of Justice for collection pursuant to Section 504(a) of the Act.⁹ Requests for full payment under an installment plan should be sent to: Chief, Revenue and Receivables Group, 445 Twelfth Street, S.W., Washington, D.C. 20554.¹⁰

⁴ 47 C.F.R. 1.80(i).

⁵ 47 U.S.C. § 405.

⁶ 47 C.F.R. § 1.106.

⁷ 47 U.S.C. § 503(b).

⁸ 47 C.F.R. § 1.80.

⁹ 47 U.S.C. § 504(a).

¹⁰ 47 C.F.R. § 1.1914.

8. **IT IS FURTHER ORDERED** that, a copy of this *Order* shall be sent by regular mail and Certified Mail Return Receipt Requested to Northeast Passage Corporation, P.O. Box 373, Lanoka Harbor, New Jersey 08734.

FEDERAL COMMUNICATIONS COMMISSION

David H. Solomon
Chief, Enforcement Bureau